

EXHIBIT 7



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX : CRIMINAL TERM : PART T-13

-----x
THE PEOPLE OF THE STATE OF NEW YORK, :Ind. No.
-against- :2207/01
ANTHONY MANGANIELLO, :TRIAL

Defendant(s). :

-----x
851 Grand Concourse
Bronx, New York 10451
June 28th, 2004

B E F O R E:

HONORABLE MARTIN MARCUS,
JUSTICE SUPREME COURT & jury.

A P P E A R A N C E S:

ROBERT T. JOHNSON, ESQ.
District Attorney, Bronx County
BY: CHRISTINE SCACCIA, ESQ.
SUZANNE MCELWREATH, ESQ.
Assistant District Attorney

FOR THE DEFENDANT(S):

MURRAY RICHMAN, ESQ.
RENEE HILL, ESQ.
2027 Williamsbridge Road
Bronx, NY

Lorraine L. Ramsey
Senior Court Reporter

Cobb - People - Direct 47

1 You said you got to work at about
2 eight or so that day, your normal hours, correct?

3 A. Uh-hum.

4 Q. And that now you were saying as you
5 were approaching, you were approaching 1700, the
6 building, from the street; what street were you
7 walking on?

8 A. Metropolitan Avenue.

9 Q. Okay. And now, the carriage rooms
10 that are located in the basement of 1700, do they
11 have any windows or other doors that face out onto
12 Metropolitan Avenue?

13 A. Several have, but the windows were
14 facing out, one particular window facing out to
15 Metropolitan Avenue.

16 Q. And now, you're walking along.

17 Could you tell us what, if anything,
18 you remember happening as you're now walking
19 towards the basement of 1700?

20 A. A few steps ahead of me was what they
21 call a ramp to get into the building, but prior to
22 that, there's one particular window I happen to
23 hear.

24 Q. What did you hear?

25 A. Four shots.

Cobb - People - Direct 48

1 Q. Now, the shots that you heard, did you
2 have any idea where they appeared to be coming
3 from?

4 A. From one particular, only one
5 particular window as I approached the ramp.

6 Q. Other than hearing the shots, at that
7 moment in time, did you see anything else around
8 you on the street?

9 A. No, ma'am.

10 Q. And could you describe for the ladies
11 and gentlemen of the jury what these shots sounded
12 like to you?

13 A. Well, I'm familiar, being that I was
14 in the United States Marine Corps, with firearms
15 and they sounded muffled to me, like they came
16 from a 22 or a 25.

17 Q. Why do you say 22 or 25, what makes
18 you say that?

19 A. The caliber, less power in the shell,
20 less noise. A higher caliber would make much more
21 noise and coming in a, let's say empty basement,
22 would make a much louder noise.

23 Anything below that would sound like
24 a fire cracker. But I can tell the difference.

25 Q. Okay. So now, after you hear these

Cobb - People - Direct 49

1 four shots, what do you do?

2 A. What do I?

3 Q. What do you do?

4 A. I forgot it completely for the brief
5 moment. I had made my turn to the small ramp to
6 gain entrance to the building.

7 Q. And what happens?

8 A. As I use my comp key or was about to
9 use my comp key, the door flies open. I didn't
10 touch, I didn't even get to physically touch the
11 door. The door flew open.

12 Q. What causes the door to fly open,
13 Mr. Cobb?

14 A. Someone exiting it from the inside to
15 the outside.

16 Q. Okay. And this person who was exiting
17 it, had you ever seen this person before, ever?

18 A. At that particular moment I saw him,
19 yes.

20 Q. And did you recognize this person?

21 A. Yes, I did.

22 Q. And who did you recognize the person
23 to be?

24 Who was it?

25 A. Well, I don't know him but I found out

Cobb - People - Direct 50

1 later because he work in the place, I know him by
2 sight.

3 Q. Okay. And how did you recognize him
4 as working in your place?

5 A. Because of the uniform he had.

6 Q. This is an individual who you said you
7 had seen by sight?

8 A. Yes, on the premises.

9 Q. Did you see, when you saw this
10 individual, was he dressed in any uniform?

11 A. Yes.

12 Q. Mr. Cobb, I'm going to ask you to take
13 a look around the courtroom today and indicate for
14 us if you see the person you saw open the door on
15 February 12th, 2001 here in this courtroom?

16 A. Yes, ma'am.

17 Q. Where is he?

18 A. Directly to my left.

19 Q. Okay.

20 MR. RICHMAN: Indicating the
21 defendant.

22 Q. Now, when the defendant, Mr.
23 Manganiello opened the door, did you say something
24 to him, Mr. Cobb?

25 A. Yes, I did.

a/lr P.O. NIEVES - PEOPLE - DIRECT

belong to a larger complex?

A. Yes.

Q. What complex does that building belong to?

A. Parkchester Condominiums.

Q. Could you tell the members of this jury, Officer Nieves, what it was that brought you and your partner over to 1700 Metropolitan Avenue that morning?

A. We had a radio run of an officer shot.

Q. Now, this radio run is that information you received over your police radio?

A. Yes.

Q. And when you're driving around in a police car on patrol?

Who is it that sends you to particular jobs?

A. Central Dispatcher.

Q. Now, the transmissions that you hear from Central Dispatcher, are they transmissions being given to you by police department personnel or are you actually hearing 911 calls?

A. I'm sorry repeat the question.

Q. When a person calls 911 to report an incident requesting police assistance, do you hear that call or do you just hear the information that Central gives you?

A. Central gives us.

a/lr P.O. NIEVES - PEOPLE - CROSS

A. Correct.

Q. You made no notes of the event itself,
correct?

A. Correct.

Q. All you did was make a single notation that
you arrived at the scene, correct?

A. Correct.

Q. And you never made a note, nor did you write
anything other than -- withdrawn.

You made no notes concerning the event as to
what you observed or what you heard; is that correct?

A. Correct.

Q. You testified that you were hearing a 1013
correct?

A. Correct.

* * * * *

(Continued on next page...)

cpB

P.O. Nieves - People - Cross

THE COURT: You're saying there wasn't
or it doesn't refresh your recollection?

THE WITNESS: Not to the exact wording
of how the job came over.

Q. Do you recall whether or not now, after
reviewing that document, whether or not it stated
Parkchester Security officer?

MS. SCACCIA: Objection.

MR. RICHMAN: The broadcast I'm talking
about.

THE COURT: Does this refresh your
recollection? Go ahead.

Q. Does this refresh your recollection as --
withdrawn.

Does this document refresh your
recollection?

THE COURT: I'm sorry, let's go back to
the first question. Do you recall whether or
not --

Q. Do you recall whether or not the broadcast
was indicated a Parkchester Security officer down or
words to that effect?

A. I remember it saying either Parkchester
Security or officer, unknown whether it was security or
police officer.

cpB P.O. Nieves - People - Cross

A. Uh-hmm. Yes.

MR. RICHMAN: And may I just have a moment, Your Honor?

(Pause in the proceedings.)

Q. You testified on direct examination, question of -- can we put this question to you?

MS. SCACCIA: Can I have a page number?

MR. RICHMAN: Bear with me.

Q. Did you testify on a previous occasion in the Grand Jury?

THE COURT: What page?

Q. EP-111. He said -- withdrawn.

EP-111 line 4.

"Question: What happened to you when you go outside?

"Answer: As I was walking out, I saw one of the Parkchester officers, which was Anthony Manganiello, coming in. I figured they worked together.

"He said, 'I don't want to go in there.' And he said, 'That's my partner in there.'"

Do you remember that being your words?

A. Yes.

Q. "Question:" 123, line 7, you testified on direct examination by saying, "I want to go in there.

cpB P.O. Nieves - People - Cross

That's my partner."

Now it turns out in the Grand Jury you testified, "I don't want to go in there. That's my partner," right?

You also testified on direct examination that, "You had no way of knowing that the person down was an officer or a PSAA, Parkchester Special Police?"

Your answer, "Yeah."

A. Right.

Q. Now, would it be fair to say that you never wrote anything down about the events of that day, correct?

A. Right.

Q. Even until today you never wrote it down?

A. Right.

Q. You testified one minute -- at one occasion that the person said, "I don't want to go in there," correct?

A. Correct.

Q. You testify on another occasion that the person said, "I do want to go in there?"

A. Right.

Q. You testify you didn't know that it was a Parkchester person who was shot because you never received the call over the radio, correct?

cpB P.O. Nieves - People - Cross

THE COURT: Sustained.

Q. Now, how many transmissions came over the telephone, on the wires that day?

MS. SCACCIA: Radio.

Q. Radio, sorry. Still ancient times.

A. In that whole day?

Q. No, that event that you recall.

A. I can't recall.

Q. Now, when you -- when for the first time did you tell a detective about what you allegedly observed?

A. I believe it was March 1st.

Q. And about three weeks later --

A. Two-and-a-half, three.

Q. -- right?

A. Yes.

Q. Not having written anything down, but that's what you recall, 'correct?

A. Yes.

Q. You didn't go back that afternoon to speak to a detective, right?

A. Not that I recall, no.

Q. You didn't speak to a detective that morning at the scene?

A. No.

Q. You didn't go back the following day, did

P.O. Perez - Peop. - Direct 210

1 A. I recognize the white machine and,
2 that square, that's where Mr. Acosta was laying.

3 Q. And now, from the point in time that
4 you receive the initial call to respond there
5 until you get there and walk into that room, do
6 you, yourself, Officer Perez, know whether the
7 person that they're calling for is an N.Y.P.D.
8 officer or a Parkchester security Officer?

9 A. No, I just assumed it was P D.

10 Q. At some point in time do you learn
11 that the individual who was on the ground, Mr.
12 Acosta, is an employee of Parkchester, a security
13 officer?

14 A. Yes.

15 Q. When did you learn that information?

16 A. I learned it from my partner, Officer
17 Nieves.

18 Q. And was that after your arrival at the
19 scene?

20 A. Correct.

21 MS. SCACCIA: If I may just have
22 one moment.

23 (Pause in proceedings.)

24 MS. SCACCIA: I'm sorry, your
25 Honor, if I may just have one second.

Agostini - Peo - Direct

279

maintain custody and control of this box and these reports that you have told us about?

A. Yes.

MR. RICHMAN: Your Honor, I just object to be the leading nature of the questions.

THE COURT: Sustained as to the last question.

Q. Does there come a point in time, Detective, when you are no longer, you no longer have knowledge as to the whereabouts of this box?

MR. RICHMAN: Objection, your Honor, same objection.

THE COURT: Overruled.

A. Yes.

Q. When does that happen?

A. It was February of 2003.

Q. From that point on, from February 2003, when is the next time you try to locate the box?

A. March of 2004.

Q. What did you do to try to locate the box?

A. I searched the file rooms, I searched numerous rooms, I searched the basements, I

Agostini - Peo - Direct

280

1 searched the garage, I searched the room that it
2 was supposed to be in, and that turned into
3 another office.

4 I basically searched the whole
5 precinct.

6 Q. And after your search, were you able
7 to find your box?

8 A. No.

9 Q. Of the items that you have spoken
10 about, while this box was in your possession did
11 you make duplicate copies of a number of the items
12 that were contained in this box?

13 A. I made some copies, yes.

14 Q. What items did you copy?

15 A. I basically copied the DD-5's which
16 are the complaint follow ups.

17 Q. And these are of the reports that were
18 generated by the detectives that you told us
19 about?

20 A. Yes.

21 Q. And as of today, do you still have
22 copies of those reports?

23 A. Yes.

24 Q. What about the handwritten notes that
25 you told us about?

Agostini - Peo - Direct 283

1 the room was totally changed. They made it into
2 an auxiliary room.

3 Q. Which means what, what is that?

4 A. Auxiliary police room.

5 MS. SCACCIA: Your Honor, can we
6 step up for a moment, please?

7 THE COURT: Yes.

8 (At this time and off the record
9 discussion is held at the bench among Court
10 and counsel.)

11 THE COURT: All right, ladies and
12 gentlemen, we're going to stop now for the
13 day.

14 I remind you of your obligation as
15 jurors, to keep an open mind throughout the
16 trial; not to discuss the case among
17 yourselves or with anyone else during the
18 trial; not to permit anyone to discuss the
19 case in your presence; not to talk to the
20 attorneys, witnesses or defendant about
21 anything during the course of the trial; and
22 not to visit or view the place where the
23 crime charged was allegedly committed or any
24 other locations that have come up during the
25 trial.

a/lr DET. AGOSTINI - PEOPLE - DIRECT

1 Q. And can you tell the ladies and gentlemen of
2 the jury what pedigree information is?

3 A. Pedigree information is basically your name,
4 date of birth, address and a phone number.

5 MR. RICHMAN: Your Honor, most
6 respectfully may we approach?

7 THE COURT: Yes.

8 (Whereupon, the following discussion
9 takes place at side-bar among the Court and
10 Counsel, outside the hearing of the defendant and
11 sworn jurors, off the record.)

12 MS. SCACCIA: May I have a read back.

13 (Whereupon, the Court Reporter reads
14 back the requested testimony.).

15 Q. Now, Detective Agostini, you said at some
16 point that you learned Mr. Manganiello's full name to be
17 Anthony Manganiello, correct?

18 A. Yes.

19 Q. And did you have an opportunity to ask Mr.
20 Manganiello what his address was?

21 A. Yes.

22 Q. And could you tell the ladies and gentleman
23 of the jury, what, if anything, his response was when you
24 asked him that question?

25 A. I don't know. I don't know.

a/lr DET. AGOSTINI - PEOPLE - DIRECT

1 Q. Did you have an opportunity to ask him Mr.
2 -- ask Mr. Manganiello --

3 THE COURT: I'm sorry. I don't know?

4 You don't know or I don't know that was
5 his response?

6 THE WITNESS: His response was, "I don't
7 know."

8 Q. Now, did you have an occasion while you were
9 present with Mr. Manganiello to ask him what, if any,
10 phone contact information he had?

11 A. Yes.

12 Q. And what, if any, response did Mr.
13 Manganiello give you when you asked him for his phone
14 contact?

15 A. It's unlisted.

16 Q. At that point or shortly thereafter,
17 detective, did you cease communicating with Mr.
18 Manganiello?

19 A. Yes.

20 MS. SCACCIA: Your Honor, I have no
21 further questions of this witness.

22 THE COURT: Mr. Richman.

23 MR. RICHMAN: Yes, Your Honor.

24 CROSS EXAMINATION

25 BY MR. RICHMAN:

a/lr DET. AGOSTINI - PEOPLE - CROSS

1 Q. And wasn't this one of the reports you caused
2 to have turned over to the District Attorney's office?

3 A. Uhm, I don't know if they have it or not.

4 Q. Sir, you caused five folders to be turned
5 over to the District Attorney's office; is that correct?

6 A. Yes.

7 Q. Containing photocopies of DD-5s, right?

8 A. Yes.

9 Q. And you were the person in charge of this
10 investigation?

11 A. Uh, not until 8, 8:30 that night. Yes.

12 Q. Not till 8:30 that night?

13 A. That's correct.

14 Q. But at 8:30 that night you became in charge
15 of that investigation?

16 A. Yes, I did.

17 Q. And you remained in charge of the
18 investigation for 3, 4 months at least?

19 A. Yes.

20 Q. And, in fact, the folder was in your charge
21 from that point forward?

22 A. Yes.

23 Q. And that folder was not just a little
24 folder. it was a box about this size. correct?

25 A. Approximately, yes.

a/lr DET. AGOSTINI - PEOPLE - CROSS

1 Q. And that box was full of files, materials
2 for this case, right?

3 A. It had my five folders, a book, a memo book,
4 and probably other papers. Yes.

5 Q. When you say other papers, what other papers
6 do you recall was in that box?

7 A. It could be computer checks.

8 Q. Computer checks?

9 A. Yes.

10 Q. How about a diagram of the crime scene
11 itself was that there?

12 A. Uhm, I think we do have that.

13 Q. You do?

14 A. Yes.

15 Q. Now, when you say we do have that, you have
16 it, correct?

17 A. And I believe you do also.

18 Q. And it was given in the box?

19 You didn't put it in the box, right?

20 A. It was --

21 MS. SCACCIA: Objection.

22 Q. Was it in the box?

23 THE COURT: You can answer.

24 A. Yes.

25 Q. The original was in the box?

a/lr DET. AGOSTINI - PEOPLE - CROSS

1 A. Yes.

2 Q. And you took notes, didn't you?

3 A. Yes.

4 Q. And, in fact, you know that it's customary
5 for a detective to take notes, correct?

6 A. That's correct.

7 Q. And you do -- in fact, you filled out more
8 than one spiral of notebooks of notes, do you recall?

9 A. I don't recall if it's more than one. I
10 don't --

11 Q. But you interviewed people and you took
12 notes, right?

13 A. Yes.

14 Q. And that was in your box, too?

15 A. Yes.

16 Q. But you lost those notes?

17 A. Yes.

18 Q. Now, there was another detective involved in
19 this case. A Detective Martinez, correct?

20 A. Yes.

21 Q. And you know for a fact that Detective
22 Martinez took notes?

23 A. Do I know for a fact? No, I didn't see him
24 taking notes.

25 Q. Have you seen -- is it customary for a

A Can I explain myself?

Q No. Please. Did the police officer -- were you aware that police officers got there as well?

A I can't answer that. I wasn't there.

Q Okay. You have a notation here that says, "handled by P.D.," and does not P.D. mean police department?

A That's what Officer Manganiello relayed to me. That's why I put it down there.

Q And do you know if officer -- was Officer Acosta also sent to that?

A Yes, sir.

Q And did you know whether or not he ever showed up?

A He told me he was 84, which means he was there at 1700.

Q He was there at 1700?

A He was ready.

Q Where do you have that?

A Not from the police radio. From our radio.

Q And we are now talking now at 8:45 in the morning?

A Right.

lc-c S.P.O. Colon - People - Cross

443

THE COURT: When you say "he", you are talking about Officer Acosta? That was the question?

THE WITNESS: Yes, sir.

THE COURT: Okay.

Q And you made a notation of that somewhere?

MS. SCACIA: Objection.

THE COURT: Come up.

(Whereupon, an off-the-record discussion took place at the bench between the Court and counsel, out of the presence of the defendant.)

THE COURT: The objection is overruled.

(Continued on the next page.)

d/lr SPO COLON - PEOPLE - CROSS

MS. SCACCIA: Which?

MR. RICHMAN: Last conversation by Mr.
Colon.

THE COURT: The last transmission on?

MS. SCACCIA: People's 3.

THE COURT: People's 3 or People's 6.

MR. RICHMAN: His call to 911.

THE COURT: People's 3.

(Whereupon, 911 tape is played in open
court. Not transcribed for these purposes).

Q. Mr. Colon, you heard the time that call went
out, correct?

A. Yes, sir.

Q. 10:22, did you hear that?

A. Yes.

Q. When did you learn that the person who was
injured in the basement was one of your officers?

A. When the Sergeant Ohle called me stating
that.

Q. And he called you?

A. Over the radio.

Q. Over the radio.

And that's -- a radio is open line to other
officers, as well?

A. Yes. Yes.

d/lr SPO COLON - PEOPLE - CROSS

Q. So other officers who may have had their radio would have been able to hear the same communication?

A. Yes, sir.

Q. And when did Sergeant Ohle call you? Call that to you?

A. Just before I made that call.

I called -- made that call right away to 911.

Q. And what other officers were there at the time when Sergeant Ohle made that call to you?

MS. SCACCIA: Objection.

THE COURT: Where were?

Q. At the scene, that you knew of?

You said other officers were there?

A. Later, later on I found out that Officer Nieves was there.

Q. But you said to the officer on at 10:22 that other officers -- your other officers were present at the scene, correct?

A. Yeah, because Sergeant Ohle called me stating that there was officers down (sic), so I called 911, and Officer Nieves was patrolling in his car. He was down there, too.

Q. But did you know that he was there?

d/lr SPO COLON - PEOPLE - CROSS

MS. SCACCIA: That's --

THE COURT: How old it.

MS. SCACCIA: That's Mr. Cobb. We need to go two conversations ahead.

THE COURT: It's earlier or later?

MS. SCACCIA: It's later. He has to fast forward from that.

THE COURT: Right.

(Whereupon, the 911 tape is being played in open court. Not transcribed for these purposes.)

CROSS EXAMINATION

BY MR. RICHMAN:

Q. Sir, did you hear yourself say you sent someone to a man in the basement and you believe he encountered someone else there?

A. Yes, sir.

Q. Now, you were explaining how the man -- the man in the basement got there injured, were you not, to the police officer?

MS. SCACCIA: Objection.

THE COURT: Sustained.

Q. You heard what you said, right?

A. Yes, sir.

Q. Who was the officer you sent to answer that

d/lr SPO COLON - PEOPLE - CROSS

that that's because you assumed that the officer who went there and encountered someone must be the officer down, is that right? Is that what you meant?

THE WITNESS: I was trying -- I thought it if -- that if he was down, he must of -- must have been foul play.

THE COURT: Must?

THE WITNESS: Exactly.

THE COURT: Okay when you referred to that officer, when you -- who you sent to the location and who you now believe was down because he encountered someone, did you think it was some officer in particular?

THE WITNESS: Well, I thought it was Officer Acosta.

MR. RICHMAN: Nothing further.

REDIRECT EXAMINATION

BY MS. SCACCIA:

Q. First of all, counsel asked you about summons and how Parkchester Officers when you're issuing a summons for garbage, correct?

A. Correct.

Q. You leave, depending on what type of residence it is, you either leave a copy with the tenant

f/lr PROCEEDINGS

wit, the securing of a conviction as against my client by putting a gun in his hand when they know that not to be the truth or should have known it not to be the truth.

THE COURT: I don't understand what you're saying.

MR. RICHMAN: Well, in view of Mr. Damon's no longer a prosecution witness based upon the falsity of the statement, I would like the opportunity to potentially bring it to the Court's or at least the jury's attention of just that, that he was such a person and he -- the prosecution through auspices in this particular case had proffered him initially as a witness only later to find out that he withdraw it knowing it to be untrue.

MS. SCACCIA: If counsel can remember back to this morning when we had this discussion at the bench, I said I don't believe his recantation and I don't know whether he was, in fact, lying then or is lying now. but I know I have an obligation and I'm not going to put a liar on the stand because either way you cut it he's lying.

So I don't know where this whole surprise and he didn't know that Booth and

cpE

Booth - People - Cross

1 A. Excuse me?

2 MS. SCACCIA: What does that mean?

3 THE COURT: Sustained.

4 Q. Does anybody bother you in the 43rd
5 Precinct?

6 A. Do they bother me?

7 THE COURT: Excuse me. Sustained.

8 Q. Have you ever been arrested in the 43rd
9 Precinct?

10 MS. SCACCIA: Objection.

11 A. No.

12 THE COURT: Excuse me. If there's an
13 objection, give me a chance to rule.

14 MR. RICHMAN: Sorry.

15 THE COURT: Sustained.

16 Q. Do you stay in the vicinity of the 43rd
17 Precinct of Parkchester area?

18 A. Yeah.

19 Q. And that is the 43rd Precinct, if you know,
20 correct?

21 A. I believe so, yes.

22 Q. Have you ever been arrested?

23 MS. SCACCIA: Objection.

24 THE COURT: Sustained.

25 Q. Have you ever been convicted of a crime?

cpE Booth - People - Redirect

1 A. No.

2 Q. When the police came to you, they came to
3 you in March of the year 2001, right?

4 A. Yes.

5 Q. And do you know Mr. Manganiello by name?

6 A. No, just by short, fat guy.

7 Q. Short, fat guy.

8 But when you wrote out a statement, you
9 wrote a statement saying Manganiello came to you,
10 right?

11 A. Yeah.

12 Q. Who gave you the name Manganiello?

13 A. Detectives.

14 Q. The detectives. Thank you.

15 MS. SCACCIA: Before I ask my next
16 question, I would like a ruling from Your Honor.

17 THE COURT: Come up.

18 (Whereupon, a discussion was held off
19 the record between the Court and Counsel.)

20 THE CLERK: Come to order. Remain
21 seated.

22 REDIRECT EXAMINATION

23 BY MS. SCACCIA:

24 Q. Mr. Booth, when counsel was trying to ask
25 you about the 43rd Precinct and nobody bothering you --

cpE

Booth - People - Redirect

1 MR. RICHMAN: Objection.

2 Q. -- did the cops in this case give you a
3 free ride?

4 THE COURT: Sustained. But go ahead
5 and ask your question.

6 Q. Have you ever gotten any sort of benefit
7 from the police department regarding your side
8 businesses because you gave this statement against Mr.
9 Manganiello?

10 A. No.

11 Q. Have you received any benefit from giving
12 this statement to the police about Mr. Manganiello?

13 A. No.

14 Q. And you said that at some point, maybe some
15 of your side businesses were either running numbers or
16 loaning out money, right?

17 A. Yeah.

18 Q. If I can use two street terms to describe
19 those activities, perhaps maybe a little bookmaking and
20 perhaps a little loan sharking?

21 A. No.

22 Q. Not that severe?

23 A. No.

24 Q. However, when you were being asked about
25 nobody else bothering you in the neighborhood, did you

cpE

Booth - People - Recross/Redirect

1 generally have problems with the civilian population
2 within Parkchester?

3 A. Nobody.

4 Q. Would it be reasonable, Mr. Booth, if
5 somebody thought that you were either into some things
6 such as running numbers or lending money that perhaps
7 you too --

8 MR. RICHMAN: Objection.

9 Q. -- could assist them in obtaining an
10 illegal gun?

11 THE COURT: Sustained. Don't answer
12 the question.

13 MS. SCACCIA: I have no further
14 questions.

15 RECROSS EXAMINATION

16 BY MR. RICHMAN:

17 Q. But the detectives gave you the Manganiello
18 name, correct?

19 A. Yes.

20 FURTHER REDIRECT EXAMINATION

21 BY MS. SCACCIA:

22 Q. When you told the detectives who approached
23 you regarding where they could get a rod, what
24 description or identifying information did you give
25 them about the person?

cpE

Booth - People - Recross

1 A. A picture. They showed me a picture. They
2 showed me a book and there he was.

3 MR. RICHMAN: Objection.

4 THE COURT: Sustained. Stricken.

5 Q. Mr. Booth, the day that you had the
6 conversation about the rod with Mr. Manganiello --

7 A. Uh-huh.

8 Q. -- was that the first time you had ever
9 seen him?

10 A. No, it wasn't the first time.

11 Q. Did you continue to see him after you had
12 that conversation with him?

13 A. Yeah.

14 Q. And regardless of his first or last name,
15 when you saw -- that day when you had the conversation
16 about the rod, were you able to recognize him?

17 A. Yeah.

18 MS. SCACCIA: I don't have any other
19 questions.

20 FURTHER RECROSS EXAMINATION

21 BY MR. RICHMAN:

22 Q. By the way, you said you gave a written
23 statement, right?

24 A. Excuse me.

25 Q. You gave a written statement?

cpE Booth - People - Recross

1 A. Yeah.

2 Q. And this was your own handwriting, right?

3 A. Yeah.

4 Q. And you gave it to who, a Detective
5 Agostini, perhaps?

6 A. There were two of them there.

7 Q. Agostini and who else?

8 A. I don't remember the name.

9 Q. Who was the one who told you the name of
10 Manganiello?

11 A. I don't believe -- I don't remember which
12 one.

13 Q. Hmm?

14 A. I don't remember which one.

15 MR. RICHMAN: Thank you.

16 THE COURT: Anything further?

17 MS. SCACCIA: Just one more thing, Your
18 Honor. And I have to find a piece of paper before
19 I can ask the question.

20 You know what, I have no other
21 questions.

22 THE COURT: You're excused. Thank you.

23 (Whereupon, the witness exits the
24 courtroom.)

25 THE COURT: Can I see the attorneys,

Proceedings

brought down --

MS. SCACCIA: It's 15 pages.

MR. RICHMAN: -- 15 pages of documents concerning observations and notes from the Crime Scene person at the scene in the morning of February 12th. This is the first we've had any knowledge whatsoever that this existed or that the Crime Scene was there. And I believe the prosecution has indicated that's the same as to her.

In addition thereto, as I walked into the courtroom this morning, 14 photographs showed up that were from Crime Scene that were just turned over to her. In fact, she received it in the courtroom when they came up in that envelope and brought by hand of this crime scene itself.

It is a very difficult way to try a case in this particular manner. In fact, it's not only difficult, it's virtually impossible.

You gear up to go one direction, you gear up, you get assumptions of certain facts, then to see or attempt to have the prosecution deliver these items now.

I have no intention of introducing these items in evidence. I have no intention of

cpB

Proceedings

going any further. I think it is wrong to even have, but we have to inquire as to their existence.

Again, I in no way fault the prosecutor herself. It is obviously something wrong with the department that put this case together this way.

THE COURT: You know, I have to agree with something you said this morning, because I've never seen anything like this before. I've certainly seen things not be disclosed earlier, but in getting Crime Scene photographs the last day of the trial is amazing.

MS. SCACCIA: I would agree.

For the record, though, because none of this is an ideal situation, I just want to list what exactly was in the 15 pages, because 15 pages sounds horrific. And again, I'm not -- you know what, there is no excuse for the way I got the paperwork, the way I was able to turn the paperwork over and I'm not doing it for that purpose. I'm doing it for the purpose of the record.

In the 15 pages, the first page was a fax cover sheet.

The second page was a body diagram of

cpB

Proceedings

that are in evidence.

The eighth page is the handwritten version of the body sheet, which has two handwritten X's as opposed to two typewritten X's.

Sheets 9 and 10 are the detective's handwritten notes which list the victim's name, Mr. Manganiello's name.

It says, "Gunshot residue kit done at 12:25, 43rd precinct Squad room."

It lists a narrative of or I should say a legend of the photos that were taken.

On page 10 it says that, "The navy jacket, navy shirt from the defendant were taken, the gunshot residue kit, a blood sample."

Again, all of which we had known about.

MR. RICHMAN: Your Honor, one second. On 9, remember the big issue was whether or not my client gave his name and address.

His name and address is right here in handwriting at 12:25 with a precise time the officer was supposed to have asked him. It is written at 227 Westchester Avenue, Mount Vernon, New York. Social 110-153-4172.

THE COURT: Whose handwriting?

MR. RICHMAN: Officer's.

cpB

Proceedings

MS. SCACCIA: That is McMahon from Crime Scene's written notes.

MR. RICHMAN: 12:25, Your Honor, at the same time allegedly Officer Agostini is questioning him and he's not giving his name and address.

THE COURT: Yeah.

MR. RICHMAN: Only the fact that apparently he did give it and here it is.

MS. SCACCIA: Or it was taken off some ID that he had on his person or his memo book.

The other items listed on page 10 are the two -- three shell casings, excuse me, that we had known about and are in evidence, the two deformed pieces of lead, a latex glove that was an EMS glove that's, I think, actually seen in one of the photographs turned over to counsel, and the victim's jacket was recovered. Again, we know there was no hair or fiber recovered from either jacket.

Then she has a rough sketch of the room and she has a computer-generated sketch of the same place.

And the last page was the lab request for -- I'm sorry, pages 12 and 13 are her

1r/ MR. COLANGELO - DEFENDANT - DIRECT

Q. I show you what has been marked as Defendant's Exhibit "X" or part thereof.

Is this part of a report that you caused to have sent to you?

A. Yes, it is.

Q. Now, in reviewing that report, could you tell me us what that report encompasses?

A. Well, the report is a document the -- the results of an examination for gunshot.

Q. Slow down, please. You're losing me. Let me hear.

A. The report documents the results conducted by a private laboratory and it responds to the presence of gunshot residue on a hand.

Q. And could you tell us what makes up gunshot residue?

A. Well, gunshot residue is the result of a gun being fired and the powder -- all the powder doesn't burn it follows the bullet out of the barrel and the residue is a part of the ammunition that makes the bullet move.

Q. And what is that made up -- is it special elements that make it a factor as to determine what gunshot residue is?

A. Yes, there's led, antimony, and barium.

Q. Those are three elements that are present in

1r/ MR. COLANGELO - DEFENDANT - DIRECT

gunshot residue?

A. That's true.

Q. And would it be fair to say that in the absence of those elements, there's not determinative whether or not -- pardon me -- are they -- I'll withdraw the question, make it easier.

Did they analyze his right hand?

A. Yes, they did.

Q. And were there any evidence of barium?

A. Antimony and led.

Q. Was there any evidence of barium, antimony or led?

A. No.

Q. What do you, in your expert capacity, draw the conclusion?

Was there any gunshot residue as a result of that?

A. There's no gunshot residue present.

Q. There is no gunshot residue present on the right hand, right?

A. That's correct.

Q. Now as a result did they also test the left hand?

A. Yes, they did but -- they had negative results in the right hand, so they went to the left hand

1r/ MR. COLANGELO - DEFENDANT - DIRECT

1 and they came up with the same conclusion negative
2 results.

3 Q. Now, when you mean negative results meaning
4 no evidence of gunshot residue?

5 A. That's correct.

6 Q. Now, there was evidence of other things were
7 there not?

8 A. Well, the other elements that environmental
9 elements that can produce a positive reaction on
10 examination. Such as, well, it will be urine, fertilizer,
11 and also some metal from keys, can openers anything that
12 contains metal. Tools.

13 Q. And it would even show that on the hand,
14 correct?

15 A. Yes, they would. They could cause a
16 positive reaction but it doesn't mean -- doesn't mean
17 that the hand fired the gun because --

18 THE COURT: When you say a positive
19 reaction, positive for what?

20 A. For the presence of -- I should say negative.
21 There was no evidence, negative. It was a negative
22 result that there was no antimony, lead or barium present
23 in the gunshot residue that whatever they recovered.

24 Q. But they also mentioned for other things and
25 it would show up for a piece of metal, lighting a